



**CITY OF LODI**  
**COUNCIL COMMUNICATION**

TM

**AGENDA TITLE:** Consider Budget Year 2011/12 Concession Proposal from Lodi Police Officers Association

**MEETING DATE:** June 15, 2011

**PREPARED BY:** City Attorney

**RECOMMENDED ACTION:** Consider Budget Year 2011/12 Concession Proposal from Lodi Police Officers Association.

**BACKGROUND INFORMATION:** Staff has received the following concession proposal from the Lodi Police Officers Association. For the reasons discussed below staff regrettably recommends that Council reject the Police Officers Associations proposal.

Group	Concession	Comments
Lodi Police Officers	3% PERS  waive all but \$59,100 of holiday cash out  waive comp time cash out  waive 3% deferred comp match  offset above concessions with any savings achieved by "super lowest cost medical."	No furloughs  Although not a negotiated concession, includes value of eliminating two funded position  Does not address POAL's Notice of Claim and leaves open substantial unbudgeted litigation costs  Super lowest cost medical would be achieved by POAL members who are currently on higher cost plans taking the POWC plan and allowing non-sworn to join POWC as associate members and securing the cheaper POWC plan. Savings will only be credited as they are achieved.

The Police Officers Association ("POA") proposal leaves open the question Notice of Claim and its potential impact on the validity of the 2007 MOU, the 2010 Addendum, and the Side Letters of February 2009, June 2009, and June 2010. Unfortunately, Staff has not been able to discuss the Notice of Claim with the POA because the POA is represented by counsel who has elected to not attend the meetings. As Council knows, the POA contends that a business relationship between the negotiators voids the side letters. If the POA's contention is correct, the 2007 MOU and the 2010 Addendum would also necessarily be void because they were signed by the same parties. Among other things those agreements gave the POA a 20 percent raise, changed from a performance incentive bonus structure to a longevity pay structure, and significantly increased

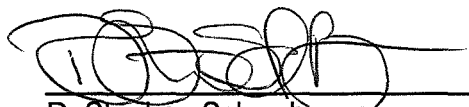
**APPROVED:**

Konradt Bartlam, City Manager

significantly increased medical insurance opt out payments (going from \$25.00 per month to as much as \$650.00 per month). The 2010 Addendum provided various other benefits including an increase in the amount of tuition reimbursement up to \$3,000, that could be unwound. Although the City's cross claim far exceeds any claim the POA may ultimately pursue, the cost of litigating the claim is not in the City's 2011/12 budget. Accordingly staff can not recommend approval of the proposal without resolution of the Notice of Claim.

**FISCAL IMPACT:** FY 2011/12 Estimated savings of \$500,000 in eliminated funded positions (four police officers). Unknown litigation costs.

**FUNDING:** Not applicable.

  
\_\_\_\_\_  
D. Stephen Schwabauer  
City Attorney



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**AGENDA TITLE:** Consider Budget Year 2011/12 Concession Proposal from Lodi Police Officers Association

**MEETING DATE:** June 15, 2011

**PREPARED BY:** City Attorney

**RECOMMENDED ACTION:** Consider Budget Year 2011/12 concession proposal from Lodi Police Officers Association.

**BACKGROUND INFORMATION:** Subsequent to the initial Council Communication staff and the Lodi Police Officers Association ("POAL") reached a tentative agreement. The tentative agreement now requires approval by the Council and the POAL membership. The tentative agreement resolves both parties' claims arising out of the May 11, 2011 POAL Notice of Claim; extends the POAL's MOU three months to and including December 31, 2011; and includes the same concessions outlined in the original Council Communication with two minor modifications (allowing excess savings to be cashed out in the form of CTO in addition to holiday and allowing vacation cash out for members who do not have CTO or holiday time).

Group	Concession	Comments
Lodi Police Officers	<p>3% PERS</p> <p>waive all but \$59,100 of holiday cash out. Allow members to cash out their pro rata portion of the \$59,100 in form of holiday CTO or vacation.</p> <p>waive comp time cash out</p> <p>waive 3% deferred comp match</p> <p>offset above concessions with any savings achieved by "super lowest cost medical."</p>	<p>No furloughs</p> <p>Although not a negotiated concession, includes value of eliminating two funded position</p> <p>Super lowest cost medical would be achieved by POAL members who are currently on higher cost plans taking the PORAC plan and allowing non-sworn to join PORAC as associate members and securing the cheaper PORAC plan. Savings will only be credited as they are achieved.</p>

The tentative agreement includes a Settlement Agreement that resolves the Notice of Claim and its potential impact on the validity of the 2007 MOU, the 2010 Addendum, and the Side Letters of February 2009, June 2009, and June 2010. As Council knows, the POA contended that a business relationship between the negotiators voided the side letters. If the POA's contention were correct, the 2007 MOU and the 2010 Addendum would also necessarily be void because they were signed by the same parties. Among other things those agreements gave the POA a 20 percent raise, changed from a performance incentive bonus structure to a longevity pay structure, and significantly increased medical insurance opt out payments (going

**APPROVED:**

Konradt Bartlam, City Manager

from \$25 per month to as much as \$650 per month). The 2010 Addendum provided various other benefits including an increase in the amount of tuition reimbursement up to \$3,000 that could be unwound. This Settlement Agreement resolves both the POAL's claims and the City's claims set forth above.

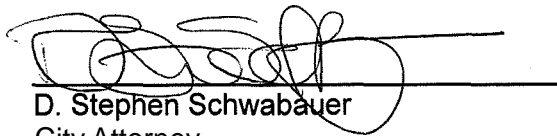
The tentative agreement also includes an Addendum extending the POAL's MOU an additional three months to and including December 31, 2011. The new expiration date will give the parties the time necessary to successfully negotiate a new contract, and in light of the concessions, continue to provide the budget certainty necessary to adopt the Council's budget.

Staff also requests authority to administratively revise the 2011/12 Financial Plan and Budget adopted June 1, 2011 to reflect the concessions approved tonight, and reduce the four position eliminations to two.

Finally, to implement the concessions, CalPERS requires the City adopt the attached resolution stating the specific percentage the City will contribute towards each employee's employee-paid contribution amount. Since CalPERS recognizes employees through their employee category/bargaining group, the attachments for Police and Dispatchers indicate the specific percentage the City will contribute towards employee-paid retirement by specific category/bargaining group.

**FISCAL IMPACT:** FY 2011/12 estimated savings of \$500,000 in combination of concessions and elimination of two positions.

**FUNDING:** Not applicable.



D. Stephen Schwabauer  
City Attorney

RESOLUTION NO. 2011-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING THE BUDGET YEAR 2011/12 CONCESSION PROPOSAL FROM THE LODI POLICE OFFICERS ASSOCIATION, AUTHORIZING THE CITY MANAGER TO EXECUTE THE SETTLEMENT AND CONCESSION AGREEMENTS; AND FURTHER AUTHORIZING STAFF TO ADMINISTRATIVELY REVISE THE 2011/12 FINANCIAL PLAN AND BUDGET ADOPTED JUNE 1, 2011 TO IMPLEMENT THE CONCESSION AGREEMENT

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WHEREAS, the claim filed on May 11, 2011, by the Lodi Police Officers Association (LPOA) has now been resolved; and

WHEREAS, subsequent to the initial Council Communication presented to the Council in their June 15, 2011 agenda packet, staff and the Lodi Police Officers Association ("POAL") have reached a Tentative Agreement; and

WHEREAS, the Tentative Agreement includes the following:

- 1) A Settlement Agreement that resolves both parties' (LPOA and City) claims arising out of the Notice of Claim filed on May 11, 2011 by the LPOA, and its potential impact on the validity of the 2007 MOU, the 2010 Addendum, and the Side Letters of February 2009, June 2009, and June 2010 ("Settlement Agreement").
- 2) An Addendum extending the LPOA's MOU an additional three months to and including December 31, 2011, giving the parties the time necessary to successfully negotiate a new contract; and
- 3) Includes the same concessions outlined in the original Council Communication with two minor modifications (allowing excess savings to be cashed out in the form of CTO in addition to holiday and allowing vacation cash out for members who do not have CTO or holiday time) - see chart below ("Concession Agreement").

Group	Concession	Comments
Lodi Police Officers	3% PERS  waive all but \$59,100 of holiday cash out. Allow members to cash out their pro rata portion of the \$59,100 in form of holiday CTO or vacation.  waive comp time cash out  waive 3% deferred comp match  offset above concessions with any savings achieved by "super lowest cost medical."	No furloughs  Although not a negotiated concession, includes value of eliminating two funded positions  Super lowest cost medical would be achieved by POAL members who are currently on higher cost plans taking the PORAC plan and allowing non-sworn to join PORAC as associate members and securing the cheaper PORAC plan. Savings will only be credited as they are achieved.

WHEREAS, staff also requests authority to administratively revise the 2011/12 Financial Plan and Budget adopted June 1, 2011 to reflect the concessions as outlined above, and reduce the four position eliminations to two positions.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the Tentative Agreement between the City and LPOA as outlined above; authorizes the City Manager to execute the Settlement Agreement; the Concession Agreement; and make the adjustments to the 2011/12 Financial Plan and Budget necessary to implement the Concession Agreement.

Dated: June 15, 2011  
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I hereby certify that Resolution No. 2011-\_\_\_\_ was passed and adopted by the Lodi City Council in a regular meeting held June 15, 2011, by the following vote:

- AYES: COUNCIL MEMBERS -
- NOES: COUNCIL MEMBERS -
- ABSENT: COUNCIL MEMBERS -
- ABSTAIN: COUNCIL MEMBERS -

RANDI JOHL  
City Clerk

RESOLUTION NO. 2011-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL  
APPROVING EMPLOYER PAID MEMBER  
CONTRIBUTIONS

=====

WHEREAS, the governing body of the City of Lodi has the authority to implement Government Code Section 20691; and

WHEREAS, the governing body of the City of Lodi has a written labor policy or agreement which specifically provides for the normal member contributions to be paid by the employer; and

WHEREAS, one of the steps in the procedures to implement Government Code Section 20691 is the adoption by the governing body of the City of Lodi of a resolution to commence said Employer Paid Member Contributions (EPMC); and

WHEREAS, the governing body of the City of Lodi has identified the following conditions for the purpose of its election to pay EPMC, and this benefit shall apply to all employees as distinguished below:

Police Officer Association of Lodi	Pay 6% of the normal member contributions as EPMC	Effective July 11, 2011
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NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi elects to pay EPMC, as set forth above.

\_\_\_\_\_  
BOB JOHNSON  
Mayor

Dated: June 15, 2011

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I hereby certify that Resolution No. 2011-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held June 15, 2011, by the following vote:

AYES: COUNCIL MEMBERS -

NOES: COUNCIL MEMBERS -

ABSENT: COUNCIL MEMBERS -

ABSTAIN: COUNCIL MEMBERS -

RANDI JOHL  
City Clerk

2011-\_\_\_\_\_

## RESOLUTION NO. 2011-98

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING THE BUDGET YEAR 2011/12 CONCESSION PROPOSAL FROM THE LODI POLICE OFFICERS ASSOCIATION, AUTHORIZING THE CITY MANAGER TO EXECUTE THE SETTLEMENT AND CONCESSION AGREEMENTS; AND FURTHER AUTHORIZING STAFF TO ADMINISTRATIVELY REVISE THE 2011/12 FINANCIAL PLAN AND BUDGET ADOPTED JUNE 1, 2011, TO IMPLEMENT THE CONCESSION AGREEMENT

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WHEREAS, the claim filed on May 11, 2011, by the Lodi Police Officers Association (LPOA) has now been resolved; and

WHEREAS, subsequent to the initial Council Communication presented to the Council in its June 15, 2011, agenda packet, staff and the LPOA have reached a Tentative Agreement; and

WHEREAS, the Tentative Agreement includes the following:

- 1) A Settlement Agreement that resolves both parties' (LPOA and City) claims arising out of the Notice of Claim filed on May 11, 2011, by the LPOA, and its potential impact on the validity of the 2007 MOU, the 2010 Addendum, and the Side Letters of February 2009, June 2009, and June 2010 ("Settlement Agreement").
- 2) An Addendum extending the LPOA's Memorandum of Understanding an additional three months to and including December 31, 2011, giving the parties the time necessary to successfully negotiate a new contract; and
- 3) Includes the same concessions outlined in the original Council Communication with two minor modifications (allowing excess savings to be cashed out in the form of CTO in addition to holiday and allowing vacation cash out for members who do not have CTO or holiday time) - see chart below ("Concession Agreement").

Group	Concession	Comments
Lodi Police Officers	3% PERS  waive all but \$59,100 of holiday cash out. Allow members to cash out their pro rata portion of the \$59,100 in form of holiday CTO or vacation.  waive comp time cash out  waive 3% deferred comp match  offset above concessions with any savings achieved by "super lowest cost medical."	No furloughs  Although not a negotiated concession, includes value of eliminating two funded positions  Super lowest cost medical would be achieved by POAL members who are currently on higher cost plans taking the PORAC plan and allowing non-sworn to join PORAC as associate members and securing the cheaper PORAC plan. Savings will only be credited as they are achieved.



WHEREAS, staff also requests authority to administratively revise the 2011/12 Financial Plan and Budget adopted June 1, 2011, to reflect the concessions as outlined above, and reduce the four position eliminations to two positions.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the Tentative Agreement between the City and LPOA as outlined above; authorizes the City Manager to execute the Settlement Agreement; the Concession Agreement; and make the adjustments to the 2011/12 Financial Plan and Budget necessary to implement the Concession Agreement.

Dated: June 15, 2011

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I hereby certify that Resolution No. 2011-98 was passed and adopted by the Lodi City Council in a regular meeting held June 15, 2011, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Katzakian, Mounce, Nakanishi,  
and Mayor Johnson

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None

  
RANDI JOHL  
City Clerk

RESOLUTION NO. 2011-99

A RESOLUTION OF THE LODI CITY COUNCIL  
APPROVING EMPLOYER PAID MEMBER  
CONTRIBUTIONS

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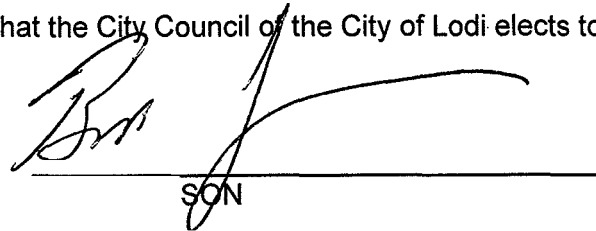
WHEREAS, the governing body of the City of Lodi has the authority to implement Government Code Section 20691; and

WHEREAS, the governing body of the City of Lodi has a written labor policy or agreement which specifically provides for the normal member contributions to be paid by the employer; and

WHEREAS, one of the steps in the procedures to implement Government Code Section 20691 is the adoption by the governing body of the City of Lodi of a resolution to commence said Employer Paid Member Contributions (EPMC); and

Police Officer Association of Lodi	Pay 6% of the normal member contributions as EPMC	Effective July 11, 2011
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that the City Council of the City of Lodi elects to



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I hereby certify that Resolution No. 2011-99 was passed and adopted by the City Council of the City of Lodi in a regular meeting held June 15, 2011, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Katzakian, Mounce, Nakanishi, and Mayor Johnson

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None



RANDI JOHL  
City Clerk